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substances emitting offensive odors, causing the defilement of the atmosphere of plaintiff's house, created a nuisance temporary in character, for which plaintiff could maintain successive actions until it was abated, but could not recover in one action for injury sustained after the institution of suit, citing *Schlitz Brewing Co. v. Compton*, 142 Ill. 511, 32 N. E. 693, 18 L. R. A. 390, 34 Am. St. Rep. 92; *City of Centralia v. Wright*, 156 Ill. 561, 41 N. E. 217; 8 Am. & Eng. Ency. of Law (2d ed.) 680, 685.

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JUDGMENT—ACTION TO SET ASIDE MARRIAGE ANNULMENT.—Judgment of a foreign state denying petition of wife for maintenance, on ground that her marriage had been annulled in New York, held *res judicata*, in an action to set aside the decree of annulment. *Everett v. Everett*, N. Y., 73 N. E. 231.

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JUDGMENT—ESSENTIALS OF A PLEA RES JUDICATA.—A plea of *res judicata* that does not show that decision was on the merits, nor set forth the former pleading, so that the court can say that it was on the merits, should be overruled. *Armstrong v. Manatee County, Fla.*, 37 So. 938.

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MECHANIC'S LIENS—FROM WHAT TIME EFFECTIVE.—A mechanic's lien held to take effect from the time the material was furnished, and to have priority over all subsequent liens, except the liens of other mechanics. *Krotz v. A. R. Beck Lumber Co., Ind.*, 73 N. E. 273

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DIVORCE—DESERTION.—Where a husband, without fault of the wife, leaves her and fails to support her, it is not incumbent on her to seek out the deserter and ask a reunion. *Coe v. Coe*, N. J., 59 Atl. Rep. 1059.

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WILLS—PRECATORY WORDS—SUFFICIENCY TO CREATE TRUSTS.—A clause in testator's will devised and bequeathed all his property to his wife, her heirs and assigns, absolutely. This was followed by the provision, "It is my wish and desire that my said wife shall pay the sum of three hundred dollars a year to my sister-in-law, Miss Nellie Post." Held, not to create a trust upon the estate which the intended beneficiary could enforce. *Post v. Moore* (1905), — N. Y. —, 73 N. E. Rep. 482.

This decision is an illustration of the reaction against the earlier tendency in favor of faising trusts for the purpose of carrying into effect the wish or desire of the testator expressed in merely precatory or recommendatory terms. The rule has been laid down that precatory words will create a trust, if the subject matter be certain, if the person intended as beneficiary be certain, and if the words are so used that upon the whole they ought to be construed as imperative. *Knox v. Knox*, 59 Wis 172, 48 Am. Rep. 487 (and note to latter report); *Warner v. Bates*, 98 Mass. 274. It will be observed that in the principal case, and cases like it, the decision must be based squarely upon the application of the third essential, since the first two are